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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/715,419 | 11/19/2003 | Sang-Phil Choi | IK-0070 | 5339 |
| 34610 | 7590 | 07/11/2006 | EXAMINER | |
| FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153 | | | TRAN, HANH VAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3637 | |

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/715,419 | CHOI | |
| | Examiner | Art Unit | |
| | Hanh V. Tran | 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-22 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-22 and 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/27/2006 has been entered.

Drawings

2. The drawings were received on 6/27/2006. These drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4, 7-22, and 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 2,828,178 to Dahlgren.

Dahlgren discloses a refrigerator apparatus comprising all the elements recited in the above listed claims including a tray comprising a boss provided on an inner surface of a refrigerator door 1, a plate 12 having a first end configured to be rotatably coupled to the boss and a second end which is opposite the first end and configured to rotate about the boss in a direction toward the inner surface of the door in response to an elastic force applied at the first end, Figs 3-4, a rotatably shaft 13 configured to be

Art Unit: 3637

rotatably coupled to the boss, an elastic member 15 mounted thereto, a stopper 16 provided in the mounting recess and configured to regulate a turning degree of the plate 12, wherein the tray recess is larger than the plate 12 and the plate is configured to be positioned within the tray recess, a receiving space is formed between the plate and the inner surface of the door, and wherein the receiving space is adjustable to have a plurality of capacity between a fully open and fully closed position of the plate based on a size of a storage item stored in the receiving space.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlgren.

Dahlgren discloses all the elements as discussed above except for the plate comprises a plurality of wires connected to one another, and the plate is made of a transparent synthetic resin material.

In regard to the plate comprises a plurality of wires connected to one another, since it is well known in the art to provide the inner surface of a refrigerator door with a wire shelf or wire tray for supporting articles thereon, it would have been obvious and well within the level of one skill in the art to modify the plate of Dahlgren by having the plate comprises a plurality of wires connected to one another. In regard to the plate is made of a transparent synthetic resin material, since it is well known in the art to provide elements of a refrigerator tray or shelf with a transparent synthetic resin material for viewing purpose, it would have been obvious and well within the level of one skill in the art to modify the structure of Dahlgren by having the plate being made of a transparent synthetic resin material for viewing purpose.

Response to Arguments

8. Applicant's arguments filed 6/27/2006 have been fully considered but they are not persuasive. In response to applicant's arguments on page 13-14 that Dahlgren shows an end 15a of spring 15 presses against the shelf not "on the inner surface of the door, as is the elastic member recited in independent claim 1, nor by the mounting surface, as recited in independent claim 17", the examiner takes the position that the claimed language fails to provide adequate structural limitations in order to distinguish applicant's invention from the prior art of record, with the shelf 2 being defined as part of the inner surface of the door.

Art Unit: 3637

9. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the size of an item to be stored) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, since plate 12 of Dahlgren is spring-biased, it meets the claimed limitation of the receiving space being adjustable to have a plurality of capacities between a fully open and a fully closed position of the guard based on a size of a storage item stored in the receiving space.

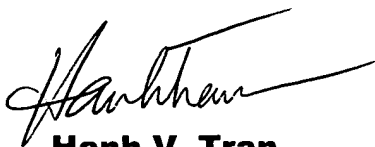
Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Hanh V. Tran', with a long horizontal flourish extending to the right.

Hanh V. Tran
Art Unit 3637

HVT

July 10, 2006